1951

File No. B. Salsette Estates 51

Legal & Dept

B **BRANCH**

Subject:— The Salsette Estates

Bill — 1957

L.A. Bill No. XXXVIII of 1957

Bom. Act No. XLVII of 1957

pts I & II combined

P. 46 E

File No. B. Salsette Estates 51

Gen. 194 e.

8/15

Legal Department.

Attention is invited to U.O. No. 11746 dated 18th August 1950. In Government Selections (N.S. No. CLXXX the Alienation Settlement Officer has referred to 140 villages in Salsette out of which are Government or Khal se villages and 4 are inam villages. Fifty are, however, lieasehold and proprietory villages. To these 50 villages must be added three more villages. ~~Kanchanwa~~ viz., Chodbun Mira and Dhyndar, which were also granted on lease. Out of these 53 villages, Ghatkopar and Amik were granted on lease for a period of 90 years. The said period has expired and the said villages have become khalsa. R.D. will have ~~to~~ to obtain information from the Collectors concerned as to how the said villages are now being administered. In any case, no legislative -

action appears necessary in respect thereof.

2. The rest of the 51 villages can be generally classified in two categories:- (1) granted in by right of absolute ownership, and (2) granted on perpetual lease or lease for 999 years. As stated in U.O. No. 11746 dated the 18th August 1950, in actual practice there would not be material difference between the tenures of the two categories and they will have to be dealt with on more or less uniform lines in the proposed measure. For all practical purposes it is not necessary to cancel and set aside the leases altogether. The relations between the trustees and the cultivators have been already determined by the introduction of the survey settlement and the quantity

operation of the Bombay Tenancy and Agricultural Lands Act, 1949. The total cancellation of grants or the resumption of leases would without serving any useful purpose from a practical point give rise to a claim on the part of grantees for compensation which would be enormous in amount. The most important right at present enjoyed by the grantees or lessees is either total or partial exemption of land revenue or payment of land reven or rent in a fixed sum. As in the code of Gujarat Talukdars, it would be sufficient if it is provided that all the lands in the villages except those w which were granted or continued in inam prior to t grant of the villages themselves should be liable to pay land revenue direct to Government in accor dance with the provisions of the Bombay Land Revenue Code and the rules there-under. It should also be provided that the grantee of the villages would no longer be an intermediary for the recover of land revenue from the permanent occupants or holders. As stated in the previous reference of 15 August 1950, it shouldbe provided that all waste lands not yet appropriated by the grantees and al other public property of the nature described in section 37 of the Bombay Land Revenue Code shoul vest in Government.

3. As regards forests which occupy a large a of the villages in question, it is necessary to provide that the rights of the grantees would be extinguished. The Indian Forest Act as now

~~The Indian Forest Act as now amended~~
by Bombay Act LXII of 1948 contains provisions for taking over the management of private forests.

4. B.D. has not yet been able to obtain information suggested in the U.R. of 13th August 1950. But a tentative draft Bill has been prepared on the above lines to enable B.D. to consider the various points raised above and to come to a final decision.

5. The most important point would be whether it is open to the Legislature to provide that all lands in the villages shall be liable to pay land revenue in accordance with the provisions of the Bombay Land Revenue Code, notwithstanding the fact that Government had made grants which contain a condition that the grantee shall hold the lands free of assessment or taxes or that a fixed amount by way of rent or other form of dues shall be payable to Government. The next point to decide would be whether, for the cancellation or variation of any such condition condition in the grant, the grantee would be entitled to any compensation under article 31 of the Constitution.

6. As regards the first point, the correct principle is that the Crown cannot deprive itself of its legislative authority by the mere fact that in the exercise of its prerogative it makes a grant of land and no court can annul the enactment of a legislative body acting within the legitimate scope of its sovereign competence (Thakur Jagannath Baksh Singh. The United Provinces (1946) F.C.R. XII, (1943) F.C.R. 72 at

North Charter Land Exploration Company v. The King (1931) 1 Ch. 169). In this case, however, grants were made by the East India Company in its executive capacity. Such grants cannot fetter the power of the Legislature to subject lands to the payment of land revenue. The right of the State to demand land revenue has been asserted in the Bombay Legislature from the erarliest times. Section 2(1) of the Bombay Regulation XVII of 1827 provided that all land shall be liable to the payment of land revenue except such as may be specially exempted by any contract or grant referred to in Chapters IX and X of the Regulation. Clause (2) of the said section then makes it clear that nothing contained in clause (1) shall be understood to affect the right of Government to assess to public revenue all lands under whatever title they may be held. In 1827 the Governor in Council or Government held als legislative power for This provision is repeated in section 45 of the Bombay Land Revenue Code which, after providing in the first paragraph that all land is liable to the payment of land revenue except such as may be specially exempted under the provisions of any special contract with the Crown, provides in the second paragraph as follows

> "But nothing in this Act shall be deemed to affect the power of the Legislature to direct the levy of revenue on all lands

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SC dt. 12-6-'50.

under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary."

Grants in Fee simple even in England imply heritable grants and absolute ownership, but not exemption from taxation (Cf 10 Ed 7,ch 8). It is, therefore, clear that all grants of the villages in Salsette would be subject to the provisions of section 2 of Bombay Regulation XVII of 1827, which are re-enacted in section 45 of the Bombay Land Revenue Code, and would in so far as the exemption or fixation of land revenue or rent is concerned be subject to the power of the Legislature to revoke such exemption or fixity. The grantees had, therefore, no absolute or indefeasible right in regard to such exemption or fixity and it is open to the Legislature to revoke any such benefit enjoyed by the grantees. If, therefore, the right to exemption or fixity was not absolute, its revocation or cancellation would not entitle the grantee to any compensation. Article 31 of the Constitution also provides that the levy of taxation does not amount to the acquisition of any property under the article and does not give rise to compensation. The judgment of the Federal Court in Eunwar Lal Singh v. Central Provinces and Andherar (1944) F.C.R. 264 at p. 294) also lays down that the mere increase of assessment does not amount to the acquisition of any rights in or over any land. It, therefore, appears that the provision in the Bill to subject the Salsette estates to the levy of full assessment would be legal and would not entitle the grantees to any compensation.

SC at. 12-8-'56.

Contd.

7. The tentative draft Bill has been prepared on the above lines. But it would be desirable to consult the Advocate General before the Bill is finally submitted to the Cabinet as it is likely that its provisions would give rise to litigation.

o.c. 11/11

Additional Secretary to Government.

U.R. to R.D. Confl. No. 807, dated the 13th November 1950.

SC dt 12-6-'56.

Legal Department.

Statement of the Case.

The proposal in these papers is to draft a Bill for the abolition or termination of the so called Khoti leases in Sālsette on which certain villages are held from the time of the East India Company.

2. As pointed out in the report of the Alienation Settlement Officer No. 445 dated the 17th July 1872 (Government selections No. CLXXX New Series at page 1) there are fifty such leasehold and propriato-ry villages. To these must be added some more villages e.g. Ghod bunder, Mira and Bhyndar, which were also granted in lease.

3. These villages can generally be classified in two categories :- (1) granted in fee simple by right of absolute ownership and (2) granted on perpertual lease or lease for 999 years. The most important right at, present enjoyed by the grantees or lessees is either total or partial exemption of land revenue or payment of land revenue in a fixed sum.. In order to achieve the object of the agrarian Reform Policy adopted by the Bombay Government it would be sufficient if the middleman or an person intervening between Government on the one hand and the actual occupant o on the other is eliminated and any occupant is made directly liable to Government for the payment of land revenue. It would therefore be sufficient if it is provided that all the lands in the villages except those which were granted or continued in

inamdar prior to the grant of the villages themselves should be liable to pay land revenue direct to Government in accordance with the provisions of the Bombay Land Revenue Code and rules thereunder. It should also be provided that the grantees of the villages would no longer be an intermediary for the recovery of land revenue from the permanent occupants or holders. It should further be provided that all waste lands not yet appropriated or occupied by the grantees and all other public property of the nature described in section 37 of the Bombay Land Revenue Code should ~~xxxxx~~ vest in Government on payment of adequate compensation.

4. To achieve the purpose in view, the accompanying draft Bill has been prepared on the lines indicated above.

5. The point for consideration therefore is whether it is open to the Legislature to provide that all lands in the villages shall be liable to pay land revenue in accordance with the provisions of the Bombay Land Revenue Code, notwithstanding the fact that Government had made grants which contain a condition that the grantee shall hold the lands free of assessment or taxes or that a fixed amount by way or rent or other form of dues shall be payable to Government. The next point to decide would be whether, for the cancellation or variation of any such condition in the grant, the grantee would be entitled to any compensation under article 31 of the Constitution.

6. As regards the first point, the correct

MM 56 dt 12-6-56.

principle is that the Crown cannot deprive itself of its legislative authority by the mere fact that in the exercise of its prerogative it makes a grant of land and no court can annul the enactment of a legislative body acting within the legitimate scope of its soverign competence (Thakur Jagannath Singh v. The United Provinces (1946 F.C.R. 111, (1943) F.C. R. 72 North Charter LandExploration Company v. The King (1931) 1 Ch. 169). In this case, however, grants were made by the East India Company in its executive capacity. Such grants cannot fetter the power of the legislature to subject lands to the payment of land revenue. The right of the State to demand land revenue,has been asserted in the Bombay Legislature from the earliest times. Section 2(1) of the Bombay Regulation XVII of 1827 provided that all land shall be liable to th payment of land revenue except such as may be specially exempted by any contract or grant referred to in Chapters IX and X of the Regulation. Clause (2) of the said section then makes it clear that nothing contained in clause (1) shall be understood to affect the right of Government to assess to public revenue all lands under whatever title they may be held. In 1827 the Governor in Council or Government had also the legislative power for the Presidency. This provision is repeated in section 45 of the Bombay Land Revenue Code which, after providing in the first paragraph that all land is liable to the payment of land revenue except such

such as may be specially exempted under the provisions of any special contract with the Crown, provides in thesecond paragraph as follows:

> " But nothing in this Act shall be deemed to affect the power of the Legislature to direct the levy of revenue on all lands under whatever title they may be held when ever and so long as the exigencies of the State may bender such levy necessary."

Grants in Fee simple even in England imply heritabl grants and exemptix absolute ownership, but not exem exemption from taxation (cf. 10 Edw. 7, Ch. 8) It is, therefore clear that all grants of the villa ages in Silsette would be subject to the provisions of sections3 of Bombay Regulation XVII of 1827, whi which are re-enacted in section 45 of the Bombay Land Revenue Code, and would k in so far as the exemption or fixation of land revenue or rent is co concerned be subject to the power of the Legislat- ure to revoke such exemption or fixity. The grantees had, therefore, no absolute or indefeasibl right in regard to such exemption or fixity and it is open to the Legislature to revoke any such benefit enjoyed by the grantees.. If, therefore, the right to exemption or fimity was not absolute, its revocation or cancellation would not entitle the grantee to any compensation.

Article 31 of the Constitution also provides that the levy of taxation does not amount to the acquisition ~~xhxxxxxx~~ of any property under the article ~~xx~~ and does not give rise to compensation. The judgment of the Federal Court in Kunwar Lal Singh v. Central Provinces and Berar (1944) F.C.R. 264 to 294) also lays down that the mere increase of assessment does not amount to the acquisition of any rights in or over any land. It, therefore, appears that the provision in the Bill to subject the Salsette Estates to the levy of full assessment would be legal and would not entitle the grantees to any compensation.

7. In view of the importance and urgency of the question, the Advocate General is requested to favour Government with his opinion in the matter, by the 5th December 1950.

o.c. 26/11

Additional Secretary to Government.

U.R.to Advocate General, Confl. No. 853 , dated the 28th November 1950.

Resubmitted for approval and signature.

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SC dt. 12-C-'56.

No. 16/50
Advocate General's Chambers,
High Court,
Bombay 22.12.1950.

U.R.to Advocate General Confl. 853 dt. 28th Nov.1950

Opinion.

I agree with the view expressed in the statement of the case on both points. The right of the legislature to tax (to levy assessment) cannot be fettered merely because there were grants of land made in exercise of the Crowns prerogative, on terms either that the land granted should be free of assessment or taxes or should be subject xx to a fixed sum for such dues. There are numerous authorities to that effect: e.g. Thakur Jagannath v/s The United Provinces (1946 F.C.R. 111) and North Charterland Exploration Company v/s The King (1931.1.Ch.169) and I.L.R. 1936. Patna 792. The proposal to subject Estates in Salsette to full assessment is valid and legal.

Art. 31 (6)(b)(i) provides that nothing in cl. (6) shall affect the provisions of any law which the State might make after the coming into force of the Constitution for the purpose of imposing or levying a tax. Accordingly so long as the effect of the proposed Act is (as it appears to be) only to levy a tax, no compensation is payable. In fact no property will be taken possession of except by way of extinguishment of rights of reversion and in waste land or property referred to in sect. 4(c) for which compensation isprovided.

Sd/ C.K.Daphtary,
Advocate General of Bombay.

MM 50
dt 15-6-'51.

STATEMENT OF OBJECTS AND REASONS.

The Salsette was one of the earliest acquisitions of the British Government on the Western coast of India, it having come into their possession in 1772-73. At the time, when the area was sparsely populated and scantily cultivated. In order to improve the tract, the British Government granted certain villages on leases in form and/or other conditions on favourable terms to persons, who undertook to attract population and bring lands under cultivation. This gave rise to a class of lease-holders and proprietors in the old Salsette Taluka, who are commonly, though erroneously, called 'Khots' Some of these Khots pay a fixed amount of land revenue to Government and enjoy the balance of revenue of the villages. There is considerable non-agricultural activity in this tract with the result that huge unearned increments from the lands have accrued to them. In furtherance of its policy of agrarian reform and abolition of unnecessary intermediaries between Government and the tiller of the soil, Government proposes to remove these intermediaries by abolishing exemption from land revenue enjoyed by these estates holders.

2. The present Bill aims to achieve this objective The legislation is called the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951. Clause 3 provides for extinguishment of estate-holder's right to revenue assessment and reversion or lapse. Except the lands which are wholly or partially exempt from payment of land revenue under a special contract, grant or terms of the Kowl, etc., in

SC dt 12-6-'56.

Contd.

in favour of any person other than the estate-holder, all lands in the estates are made liable to the payment of land revenue under the provisions of the Bombay Land Revenue Code, 1879, and the rules thereunder. Clause 4 vests in Government (a) certain waste lands, which are not the property of the estate-holder or (b) not appropriated or cultivated, although they are the property of the estate-holder and (c) all other property referred to in section 37 of the Code. Clause 5 vests in Government - forest rights in reserved trees. Clause 6 applies the provisions of the Code to these lands Clause 7 provides for compensation for extinguishment or modification of rights in the estates. Sub-clauses (5) and (6) of clause 7 and clauses 8 and 9 certain appeal provisions. The provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, are not to be affected by this Act (clause 10). Clause 11 empowers Government to make rules purpose of carrying out the provisions of the Act.

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50 dt. 12-6-'56.

No. 193-I
Legal Department,
Council Hall, Poona, 20th Sepetmeber 1951.

From

Shri J.S.Dhumandhar,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented th His Excellency the Governor the authentic copy of the Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951 which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 27th August 1951 andthe 1st September 1951, respectively.

2. The subject-matter of the Bill falls under entries 3,18,19,35,45,and 65 in List II and entries 6,7,13 and 42 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, in so far as they relate to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to Constitution. As the provisions of the Bill attract the article 254(2) of the operation of the provisions

SG dt 12-6-'56.

of the Constitution. As the provisions of the Bill attract the operation of the provisions of arti article 31(2), it is necessary to reserve the Bill for the consideration of the President with reference article 31(3) also of the Constitution.

3. I also forward herewith six copies of the items Nos.

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1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2. Bill as read for the third time and passed by the Bombay Legislative Council.
3. Extracts from the proceedings of the Bombay Legislative Assembly dated the 27th August 1951 and of the Bombay Legislative Council dated the 1st September 1951.

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1 and 2 and two copies of item No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

o/c 19/9

Secretary to Government.

Through

The Secretary to the Government of Bombay,

Revenue Department.

HM 50 dt. 12-6-'56

No. G.S. 2499

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to the Bombay Legislature Department,
Council Hall, Poona.

GOVERNMENT HOUSE.

Septr. 28 1951

~~BOMBAY 6~~
GANESHKHIND, POONA, 7

Subject: The Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951.

With reference to the ~~Subsidiary~~ Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951, which was passed by the Bombay Legislative Assembly and the Bombay Bombay Legislative Council on August 27, 1951 and September 1, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, in so far as they relate to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the Consideration of the President with reference to article 254(2) of the Constitution of India. As the provisions of the Bill attract the operation of the provisions of article 31(2) of the Constitution, it is necessary to reserve the Bill for the Consideration of the President with reference to article 31(3) also of the Constitution; His Excellency the Governor has accordingly been pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L.M.Nadkarni.

Secretary to the Governor
of Bombay.

No. G.S. -2500
Office of the Secretary to the Governor,
Government House, Ganeshkhind,
Poona 7; September 28, 1951.

Copy forwarded with compliments for information to.-

1. The Secretary to Government, Legal Department, with reference to his letter No.193-L, dt. Sept. 20, 1951

2. The Secretary to Government, Revenue Department, with reference to his endorsement No. 1223/49/32217-M dt.

Contd.

reference to his endorsement No. 1238/49/9231T-M, dated September 24, 1951.

Secretary to the Governor.

MM
SC dt. 12-6-'50.

NO.G.S. 3029

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

To :

The Secretary to Government,
Legal Department.

Government House.

BOMBAY 6 October 27, 1951

Subject: The Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951.

Sir,

With reference to the correspondence ending with your letter No. 16925, dated October 24, 1951 on theabove subject, I am to forward herewith a copy of a letter No. 17/110/51- Judicial, dated October 3", 1951, from the Deputy Secretary to the Government of India, Ministry of Home Affairs, and to request that a draft reply containing the comments of the Government of Bombay on the issues raised in the Government of India's letter may kindly be forwarded for issue from this office.

Yours faithfully,

for Secretary to the Governor
of Bombay.

SG dt 12-6-'56.

Copy of a letter No. 17/110/51-Judicial, dated October 22, 1951, from the Deputy Secretary to the Government of India, Ministry of Home Affairs, to the Secretary to the Governor of Bombay:-

With reference to your letter No.G.S.-2496, dated the 25th September, 1951, on the subject noted above, I am directed to say that the provisions in clause 7 of the Bill with regard to compensation are not in entire conformity with the requirements of clause (2) of Article 31 of the Constitution. It is laid down in sub-clause (1) that any person if any person aggrieved by any of the provisions of the Act as extinguishing or modifying any of his rights in any property and if such person proves that such extinguishment or modification amounts to transference to public ownership of such property, he may apply to the Collector for compensation. It is not stated to whom or in what manner the person concerned is to prove that the extinguishment or modification amounts to transference to public ownership of his property. Thus the pre-requisite to the application for compensation is left absolutely vague. It is essential that the Act itself should specify the particular provision in respect of which the right to apply for compensation arises. In the cases referred to in (a) and (b) of sub-clause (2) of clause 7, the maxima of compensation have been fixed but the principles on which the compensation is to be assessed have not been specified. In this view clause 7 of the Bill needs to be revised.

2. It is proposed to advise the President to return the Bill with an appropriate message to the Governor, but before doing so the Government of India would be glad to be informed whether the State Government have any comments to make.

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MM

SC dt. 12-6-'56.

No. 19097
Legal Department,
Bombay Castle, 14th November 1951.

From

Shri J.R.Dhurandhar,
Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay,
Bombay.

Subject: The Bombay Salsette Estates
(Land Revenue Exemption
Abolition) Act, 1951.

Sir,

With reference to the correspondence ending with your letter No. 2829 dated the 27th October 1951, in connection with the above matter, I am directed to inform you that in paragraph one of the letter No. 17/119/51-Judicial dated the 22nd October 1951 of the Ministry of Home Affairs of the Government of India accompanying your letter under reference, it is stated that the provisions in clause 7 of the Bill with regard to compensation are not in entire conformity with the requirements of clause (2) of article 31 of the Constitution. In support of this objection reliance is placed on the following grounds:

(1) Clause 7 does not state to whom or in what manner the person is to prove that the extinguishment or modification amounts to transference to public ownership of his property.

(2) In cases referred to in (a) and (b) of sub-clause (3) of clause 7 the maxima of compensation has been fixed, but the principles on which the compensation is to be assessed have not been

compensation is to be assessed have not been specified.

2. In the first place the assumption made in the letter of the Home Ministry of the Government of India that article 31 of the Constitution applies to the Bill in question is not correct. The present Bill is one of the enactments undertaken by the Bombay Government to carry out its agrarian Reform Policy and to eliminate intermediate estate holders. The estates which are dealt with in the Bill are estates as defined in sub-clause (2) (a) of article 31A of the Constitution read with section 3(5) of the Bombay Land Revenue Code, 1879, and the rights which are sought to be modified or extinguished are the rights as defined in para. (b) of the said sub-clause. The Bill, therefore, falls under article 31A of the Constitution and even assuming that it contains any provisions which is inconsistent with article 31 or any other article in Part III of the Constitution, such inconsistency cannot affect its validity. In considering the question of the assent of the President to the Bill, the other provisions of Part III of the Constitution would not be relevant. Strictly speaking, therefore, it would not be proper to advise the President to return the Bill on the ground that its provisions are inconsistent with Part III of the Constitution.

3. Even assuming that the provisions of article 31(2) apply to the Bill, it does not appear that the provisions of clause 7 thereof are open to the objections specified in the letter of the Home

Ministry. The first objection urged is that it is not stated to whom or in what manner the person concerned is to prove that the extinguishment or modification amounts to transference to public ownership of his property. This objection does not appear to be correct. The provisions of clause 7 make it clear that the Legislature has established a special tribunal for the assessment of compensation under the Bill. It consists of the Collector as the trial court and the Bombay Revenue Tribunal as the appellate court. The State Legislature has enacted this Bill in exercise of its powers under Item No. 18 in the Seventh Schedule to the Constitution "Land, that is to say, rights in and over land, land tenures". The scope of this item is wide enough to justify the establishment of special tribunals to decide matters falling under it. (See Megh Raj vs. Allah Rakhia, 74 I.A. 12 at p.21) Sub-clause (2) of clause 7 provides that an application in and form prescribed by rules is to be made to the Collector before whom an application for compensation is to be made. After the receipt of the application the Collector has to hold a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879. Chapter XII of the said Code shows how formal enquiries are to be held. Section 193 in the said Chapter requires evidence to be taken in full. Sub-clause (5) of clause 7 provides for an

appeal against the Collector's award to the Bombay Revenue Tribunal which is presided over by a retired High Court Judge. In deciding appeals the Revenue Tribunal has to follow the procedure which an appellate court would follow under the Civil Procedure Code. It is, therefor , certain that any person complaining that his rights in any property have been extinguished or modified by the provisions of the Bill has to tender proof of such extinguishment or modification before the Collector which is the trying tribunal and has a remedy of appeal to the Bombay Revenue Tribunal. The provisions of clause 7 of the Bill clearly specify the tribunal before which the proof is to be adduced and lay down the manner in which such proof can be established. The first contention that the Bill does not contain any provision in that respect is not correct.

4. It may be noted in this connection that, as stated above, the present Bill is one of the several Acts passed by the Bombay legislature to carry out its agrarian land reform policy and that provisions exactly similar to clause 7 of the Bill in question exist in theActs noted in the margin. Acts Nos. (1) to (4) were reserved for the consideration of the Governor General under the Government of India Act, 1935, and were assented to by him. Nos (2) and (4) were certified by

1. The Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949.
2. The Bombay Khoti Tenure Abolition Act, 1949.
3. The Bombay Taluqdari Tenure Abolition Act, 1949.
4. The Panch Mahals Mehwassi Tenure Abolition Act, 1949.

5. The Bombay Khoti Abolition Act, 1949. President under

6. The Bombay Pargana and Kulkarni Watans (Abolition) Act, 1950.

7. The Bombay Watan Vagtidari Rights Abolition Act, 1950.

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article 31(6) of the Constitution and in regard to Nos. (1) and(3) the Government of India stated in accordance with the opinion of the Attorney General of India that those Acts sufficiently complied with the provisions of section 299 of the Government of India Act and article 31(2) of the Constitution (see Government of India, Home Ministry's letter No. 43/10/50 Judicial, dated 27th April 1950). In view of opinion, the view at present expressed of the above expression in the letter under reference is obviously incorrect. Moreover, it may be added that all the Acts Nos. (2) to (6) stated in the margin which contain a provision similar to clause 7 of the present Bill have been included in Schedule IX to the Constitution by the Constitution (First Amendment) Act, 1951, and have presumably received the approval of the Parliament and the President The objection raised to the validity of clause 7 of the Bill is not, therefore, valid.

5. As regards the second objection, i.e., in regard to the provisions of clause 7(2) which provides for the maximum rate of compensation, it also appears that the significance of that clause has not been properly realised in the Home Ministry's letter under reference. A similar objection was raised to the provisions of the Bombay Watan Vagtidari

the Bombay Vatan Vaghdhari Rights Abolition Act, 1950. The objection was answered and the President has accorded his assent to the said Act. Similar provisions exist in the Bombay Bhoti Abolition Act, 1949, and also in the Panch Mahals Mahwasi Tenure Abolition Act, 1949 which are on the Statute Book after receiving the assent of the Governor General and of the President. The last two Acts are in the Ninth Schedule to the Constitution and have been approved by the Parliament. Proviso (a) to clause 7(3) of the Bill relates to the amount of compensation for the extinguishment of the right of reversion. The proviso states that for this right the amount of compensation will not exceed Rs. 10 per 100 acres. In the first place the right of reversion would be claimed by a holder of an estate only in those cases in which he may have absolute or proprietory rights. In the case of permanent cultivators it would be open to the State to claim such holdings by right of escheat or bona vacantia, if any cultivator died heirless. In few cases, and on rare occasion, therefore, the estate holder is likely to establish such a right. Such a right would, however, be notional and the provision in proviso (a) providing for the maximum rate of compensation for such a notional right improper and is a provision for adequate compensation. In any case it sufficiently complies with the provisions of article 31(2) of the Constitution even assuming they apply.

SC st. 12-6-'50.

6. In regard to proviso (b) to sub-clause(3) of clause 7 of the Bill, it relates to the amount of compensation for the kinds of lands which are set out in sub-clauses (a) to (c) of clause 4, they are:-

(1) waste lands which are not the property of the estate holder;

(2) waste lands which have not been appropriated or brought under cultivation;

(3) other kinds of property referred to in section 37 of the Bombay Land Revenue Code, 1879.

In regard to the kind of lands mentioned in (1) above, they are not the property of the estate holder and as such he cannot claim any compensation therefor. As regards the kind of property in (3), the said property is the public property such as public roads, lanes, paths, etc., specified in section 37 of the Bombay Land Revenue Code. Such property being dedicated to the public or the public having a right of use and enjoyment of such property, the interest of the estate holder in it would be nominal and its market value would be notional. The maximum rate of Rs.20 per Rq. was provided for compensation therefore, adequate. As regards the second kind of lands mentioned above, it should be noted that the most of the grants, though apparently of absolute nature, contain a stipulation to the following effect: "You are to build fresh-water tank and to

build dharmasalas and to sink in the waste lands as many wells as may be required to bring them into cultivation" (see the grant relating to Poway Estate in Government Selection No. CLXXX -N.S. p.24). In the grant relating to Vikroli village, the following are the stipulations: "You are not at liberty to cut down brab or date trees with out the permission of the Collector. You are to bring under cultivation .....waste land. For the cultivation and improvement of waste lands you are to build..... new wells." (Government Selection p. 69). Although these grants were not resumed for the non observances of th these conditions, they have been the subject matter of severe criticism in Government publicatio ons. In Bombay Gazetteer, Vol. VIII Part II Thana p. 548, the author while referring to these grants has observed as follows:

"The object with which Government granted these villages has been defeated and the results are disappointing. Few of the estates remain in the families of the original grantees ..... the owners rarely live in their estates or take interest in them or in the welfare of the people." Thus on equitable considerations also the estate holders are not entitled to any compensation for waste lands which they failed to bring into cultivation for about 150 years. In any case, for the reasons already stated, the provision that the compensation for such waste lands should not exceed

should not exceed Rs.25 per 100 acres is neither vague nor indefinite. The method of compensation is a rate per 100 acres and only maximum is provided for.

7. The only other right which some of the estate holders had and which has been extinguished or modified by the provisions of the Bill is their right to a total or partial exemption from payment of land revenue. Even assuming that article 31(2) applies to the present Bill, it is clear that in view of the provisions of clause 5(1) of article 31 of the Constitution, the imposition of full assessment or subjecting any land to the payment of full land revenue would not be acquisition of property within the meaning of article 31(2). This was the view held by the Federal Court in Kunwar Lal Sing v- Central Provinces (1944) F.C.R. 204. The mere fact that the Crown or any executive Government made a grant of such exemption would not fetter the power of the Legislature to do away with such exemption. This has been the law in the State of Bombay since 1827 (section 2(1) of Bombay Regulation XVII of 1827) and is embodied in section 45 of the Bombay Land Revenue Code which applies to these estates. This principle has been accepted by the Federal Court as well as the Privy Council in Thakur Jagannath v. U.P. (1946) F.C.R. 111, (1943) F.C.R. 72.

SC dt. 13-6-'50.

Contd.

8. For the above reasons, provisions of the Salsette Estates (Land Revenue Exemption Abolition Bill including clause 7 thereof do not contravene the provisions of article 31(2) even assuming that the said provisions apply. The Bill read as a whole is not a drastic measure. In the case of permanent holders, the intervention of the estate holder to collect the land revenue is done away with ~~him~~ and the permanent holders are required to pay it direct to Government. The estate holders, though made liable to pay full land revenue, are not deprived of the lands which are cultivated or built upon or otherwise appropriated. Only the waste lands which are not brought by them under cultivation in accordance with the terms of the grants are acquired and compensation is being paid to them in respect thereof. It is not, therefore, a Bill in regard to the provisions of which any modification or change is necessary.

9. For the above reasons the Home Ministry of the Government of India may be requested to move the President to give assent to the Bombay Salsette Estates (Land Revenue Exemption Abolition) Bill under article 31 A of theConstitution.

Yours faithfully,

14/11

Secretary to Government,

Copy forwarded with compliments to the Secretary to the Government of Bombay, Revenue Department, for information.

No. G.3.-92

FROM

Shri L.M. Nadkarni, I.C.S.,

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

To

The Secretary to the Government of Bombay,

Legal Department.

RAJ BHAVAN,

BOMBAY 6, January 12, 1953.

Subject: The Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951.

Sir,

In continuance of my letter No. G.3.-31, dated January 8, 1952, I am to forward herewith the authentic copy of the Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951, with the President's assent signified thereon.

Yours faithfully,

For Secretary to the Governor of Bombay.

MM

5C dt. 12-6-'56.

Acts.

Publication of the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 493.
Bombay Castle, 14th January 1952.

Letter to the Secretary to the Governor, No. 193-L, p. 5 dated the 20th September 1951.

Letter from the Secretary to the Governor, No. G.3.51 p. 71 - dated the 8th January 1952.

"With reference to the correspondence resting with your letter No. 20633, dated December 28, 1951, I am to state that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Salsette Estates (Land Revenue Exemption Abolition) Bill, 1951, on January 4, 1952."

RESOLUTION 1- The law should be published as Bombay Act No. XXXVI of 1951, in the Bombay Government Gazette dated the 14th January 1952.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Revenue Department with reference to the Memorandum from that Department No. 1239/49-II-M, dated the 9th August 1951.

By order of the Governor of Bombay,

K.J.PATHARE,

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay(with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies to the Revenue Department),
The Revenue Department) with a copy
The Oriental Translator to Government) of theAct.
The Bombay Legislature Department,
The Director of Publicity, Bombay,

Contd.

The Enquiry Officer for the Secretariat,
Bombay.

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* With four extra copies of the Act.

MM

56 dt. 13-6-'50.

Registered No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

TUESDAY, 14TH AUGUST 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the " Bombay Government Gazette ". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XXXVIII OF 1951.

A Bill to abolish exemption from land revenue enjoyed by holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay.

WHEREAS it is expedient to abolish exemption from the payment of land revenue enjoyed by the holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay and to provide for certain other matters hereinafter appearing ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951.

(*2*) It extends to the villages specified in the Schedule in the Bombay Suburban and Thana Districts.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) ' Code ' means the Bombay Land Revenue Code, 1879 ;

Bom. V of 1879.

(*b*) ' estate ' means a village or a part thereof specified in the Schedule, and held under a kowl ;

(*c*) 'estate-holder' means a holder of an estate and includes any person lawfully holding under or through him ;

(*d*) 'kowl' means a lease, a farm or an agreement under which an estate is held from the State Government ;

(*e*) 'permanent holder' means a sutidar, a shilotridar, a peasant proprietor or a holder who was in possession of the land in an estate before the grant of the kowl and whose rights have not been acquired by the estate-holder or who permanently holds any land on payment of assessment to the estate-holder ;

(*f*) 'Schedule' means the Schedule appended to this Act.

(*2*) Any words or expressions which are defined in the Code and not defined in this Act shall be deemed to have the meaning given to them by the Code.

Liability of land in estates to land revenue and extinguishment of estate-holder's right to revenue assessment and reversion or lapse.

3. (*1*) Notwithstanding anything contained in the kowl, a decree or order of a court or any other instrument or any law for the time being in force, but subject to the provisions of sub-section (*3*),—

(*a*) all lands in any estate are and shall be liable to the payment of land revenue to the State Government in accordance with the provisions of the Code and the rules made thereunder ;

(*b*) (*i*) an estate-holder in respect of any land which is in his actual possession as an estate-holder or is in the possession of any person who holds the same through or under him and who is not a permanent holder, and

(*ii*) a permanent holder,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land under the Code or the rules made thereunder or any other law for the time being in force :

Provided that the amount of any rent or a sum of money payable by the estate-holder as consideration or otherwise under the terms of the kowl shall no longer be leviable.

(*2*) The right to recover assessment in respect of any land held by a permanent holder and the right of reversion or lapse, if any, in respect of such land under the terms of the kowl shall be deemed to have been extinguished.

(*3*) Nothing in sub-section (*1*) shall be deemed to affect the right of any person to hold any land in an estate wholly or partially exempt from the payment of land revenue under a special contract, or grant made or recognized by the terms of the kowl in respect of the estate or under a law for the time being in force in favour of any person other than the estate-holder.

Waste lands, etc., to vest in Government.

4. (*a*) All waste lands in any estate which under the terms of the kowl are not the property of the estate-holder,

(*b*) all waste lands in any estate which under the terms of the kowl are the property of the estate-holder but have not been appropriated or brought under cultivation before the 14th August 1951, and

(*c*) all other kinds of property referred to in section 37 of the Code situate in an estate which is not the property of any individual or an aggregate of persons legally capable of holding property other than the estate-holder and except in so far as any

rights of persons may be established in or over the same and except as may be otherwise provided by any law for the time being in force, together with all rights in or over the same or appertaining thereto,

are and are hereby declared to be the property of the State and it shall be lawful to dispose of and sell the same by the authority in the manner and for the purposes prescribed in section 37 or 38 of the Code, as the case may be.

Forest rights.

5. The rights to trees specially those reserved by the Code, the Indian Forest Act, 1927, or any other law for the time being in force, shall vest in the State Government and nothing in this Act shall in any way affect the right of the State Government to apply the provisions of the Indian Forest Act, 1927, as in force in the State to forests in any of the estates.

XVI of 1927.

XVI of 1927.

Application of the Code to lands in estates.

6. Save as otherwise expressly provided in this Act, the provisions of the Code shall apply to lands in any estate.

Method of compensation for the extinguishment or modification of any rights in land.

7. (*1*) If any estate holder or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in any property and if such estate holder or person proves that such extinguishment or modification amounts to transference to public ownership of such property, such estate holder or person may apply to the Collector for compensation.

(*2*) Such application shall be made in the form prescribed by rules made under this Act within six months from the date on which this Act comes into force.

(*3*) The Collector shall after a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate :

Provided that—

(*a*) the amount of compensation for the extinguishment of the right of reversion in lands in any estate shall not exceed the amount calculated at the rate of Rs. 10 per 100 acres of such lands ;

(*b*) the amount of compensation for the extinguishment of any right in any waste land or in any other property referred to in clause (*c*) of section 4, which under the terms of the kowl was the property of the estate holder shall not exceed the amount calculated at the rate of Rs. 25 per 100 acres of such land :

Provided further that, in the case of the extinguishment or modification of any other right of any estate holder or any right of any other person, the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894.

I of 1894.

(*4*) Subject to the provisions of sub-section (*5*), the award of the Collector shall be final.

Bom. XII of 1939.

(*5*) Any person aggrieved by the award or decision of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

(*6*) In deciding appeals under sub-section (*5*), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

V of 1908.

Limitation.

8. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of 1908.

Court fees.

9. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. VII of 1870.

Provisions of Bom. LXVII of 1948 to govern relations of estate holder and tenants.

10. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any of the lands in any estate or the mutual rights and obligations of an estate holder and his tenants, save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Bom. LXVII of 1948.

Rules.

11. The State Government may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall, when finally made, be published in the *Official Gazette*.

SCHEDULE.

[*See* section 2 (*1*)(*f*)]

Bombay Suburban District.

1. Deonar.
2. Borla.
3. Kirol.
4. Kanjur.
5. Bhandup.
6. Vikroli.
7. Vyaravli.
8. Chendavli.
9. Powai.
10. Tirandaj.
11. Kopri.
12. Sanki.
13. Paspoli.
14. Tangwan.
15. Kurla.
16. Marol.
17. Asalpay.
18. Kole Kalyan.
19. Mohili.
20. Parjapur.
21. Shahar.
22. Mogra (Mogray).
23. Wasivre (Oshivra).
24. Bandhivli.
25. Maravli.
26. Mahul.
27. Vile Parle.
28. Juhu.
29. Hirali.
30. Majas.

Thana District.

1. Varsawa Boreghat.
2. Chena.
3. Ghodbunder.
4. Bhayander.
5. Mira.
6. Chinchevli.
7. Dindoshi.
8. Akurli.
9. Borivde.
10. Dahisar.
11. Magatana.
12. Arey.
13. Kaneri.
14. Part Pahadi.
15. Goregaon.
16. Poisar.
17. Walnai.
18. Wadhwan.
19. Eksar.
20. Malad.
21. Tulsi.

STATEMENT OF OBJECTS AND REASONS.

The Salsette was one of the earliest acquisitions of the British Government on the Western coast of India, it having come into their possession in 1772-73. At the time, the area was sparsely populated and scantily cultivated. In order to improve the tract, the British Government granted certain villages on leases in form and/or other conditions on favourable terms to persons, who undertook to attract population and bring lands under cultivation. This gave rise to a class of lease-holders and proprietors in the old Salsette Taluka, who are commonly, though erroneously, called "Khots". Some of these Khots pay a fixed amount of land revenue to Government and enjoy the balance of revenue of the villages. There is considerable non-agricultural activity in this tract with the result that huge unearned increments from the lands have accrued to them. In furtherance of its policy of agrarian reform and abolition of unnecessary intermediaries between Government and the tiller of the soil, Government proposes to remove these intermediaries by abolishing exemption from land revenue enjoyed by these estate holders.

2. The present Bill aims to achieve this objective. The legislation is called the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951. Clause 3 provides for extinguishment of estate-holder's right to revenue assessment and reversion or lapse. Except the lands which are wholly or partially exempt from payment of land revenue under a special contract or grant made or recognized by terms of the kowl, etc., in favour of any person other than the estate-holder, all lands in the estates are made liable to the payment of land revenue under the provisions of the Bombay Land Revenue Code, 1879, and the rules thereunder. Clause 4 vests in Government (*a*) certain waste lands, which are not the property of the estate-holder or (*b*) not appropriated or cultivated, although they are the property of the estate-holder and (*c*) all other property referred to in section 37 of the Code. Clause 5 vests in Government forest rights in reserved trees. Clause 6 applies the provisions of the Code to these lands. Clause 7 provides for compensation for extinguishment or modification of rights in lands in the estates. Sub-clauses (5) and (6) of clause 7 and clauses 8 and 9 contain appeal provisions. The provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, are not to be affected by this Act (clause 10). Clause 11 empowers Government to make rules for the purpose of carrying out the provisions of the Act.

Dated the 9th August 1951. (Signed) MORARJI DESAI.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Secretary to the Government of Bombay,
Legal Department.

Bombay, dated the 13th August 1951.

MO-V V—73

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

57

L. A. BILL No. XXXVIII OF 1951.

A Bill to abolish exemption from land revenue enjoyed by holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay.

(As read for the third time and passed by the Legislative Assembly on the 27th August 1951.)

(As read for the third time and passed by the Legislative Council on the 1st September 1951.)

WHEREAS it is expedient to abolish exemption from the payment of land revenue enjoyed by the holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay and to provide for certain other matters hereinafter appearing ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951.

(*2*) It extends to the villages specified in the Schedule in the Bombay Suburban and Thana Districts.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) ' Code ' means the Bombay Land Revenue Code, 1879 ;

Bom. V of 1879.

(*b*) ' estate ' means a village or a part thereof specified in the Schedule, and held under a kowl ;

(*c*) 'estate-holder' means a holder of an estate and includes any person lawfully holding under or through him;

(*d*) 'kowl' means a lease, a farm or an agreement under which an estate is held from the State Government;

(*e*) 'permanent holder' means a sutidar, a shilotridar, a peasant proprietor or a holder who was in possession of the land in an estate before the grant of the kowl and whose rights have not been acquired by the estate-holder or who permanently holds any land on payment of assessment to the estate-holder;

(*f*) 'Schedule' means the Schedule appended to this Act.

(*2*) Any words or expressions which are defined in the Code and not defined in this Act shall be deemed to have the meaning given to them by the Code.

Liability of land in estates to land revenue and extinguishment of estate-holder's right to revenue assessment and reversion or lapse.

3. (*1*) Notwithstanding anything contained in the kowl, a decree or order of a court or any other instrument or any law for the time being in force, but subject to the provisions of sub-section (*3*),—

(*a*) all lands in any estate are and shall be liable to the payment of land revenue to the State Government in accordance with the provisions of the Code and the rules made thereunder;

(*b*) (*i*) an estate-holder in respect of any land which is in his actual possession as an estate-holder or is in the possession of any person who holds the same through or under him and who is not a permanent holder, and

(*ii*) a permanent holder,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land under the Code or the rules made thereunder or any other law for the time being in force:

Provided that the amount of any rent or a sum of money payable by the estate-holder as consideration or otherwise under the terms of the kowl shall no longer be leviable.

(*2*) The right to recover assessment in respect of any land held by a permanent holder and the right of reversion or lapse, if any, in respect of such land under the terms of the kowl shall be deemed to have been extinguished.

(*3*) Nothing in sub-section (*1*) shall be deemed to affect the right of any person to hold any land in an estate wholly or partially exempt from the payment of land revenue under a special contract, or grant made or recognized by the terms of the kowl in respect of the estate or under a law for the time being in force in favour of any person other than the estate-holder.

Waste lands, etc., to vest in Government.

4. (*a*) All waste lands in any estate which under the terms of the kowl are not the property of the estate-holder,

(*b*) all waste lands in any estate which under the terms of the kowl are the property of the estate-holder but have not been appropriated or brought under cultivation before the 14th August 1951, and

(*c*) all other kinds of property referred to in section 37 of the Code situate in an estate which is not the property of any individual or an aggregate of persons legally capable of holding property other than the estate-holder and except in so far as any

rights of persons may be established in or over the same and except as may be otherwise provided by any law for the time being in force, together with all rights in or over the same or appertaining thereto,

are and are hereby declared to be the property of the State and it shall be lawful to dispose of and sell the same by the authority in the manner and for the purposes prescribed in section 37 or 38 of the Code, as the case may be.

Forest rights.

5. The rights to trees specially those reserved by the Code, the Indian Forest Act, 1927, or any other law for the time being in force, shall vest in the State Government and nothing in this Act shall in any way affect the right of the State Government to apply the provisions of the Indian Forest Act, 1927, as in force in the State to forests in any of the estates.

XVI of 1927.

XVI of 1927.

Application of the Code to lands in estates.

6. Save as otherwise expressly provided in this Act, the provisions of the Code shall apply to lands in any estate.

Method of compensation for the extinguishment or modification of any rights in land.

7. (*1*) If any estate holder or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in any property and if such estate holder or person proves that such extinguishment or modification amounts to transference to public ownership of such property, such estate holder or person may apply to the Collector for compensation.

(*2*) Such application shall be made in the form prescribed by rules made under this Act within six months from the date on which this Act comes into force.

(*3*) The Collector shall after a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate:

Provided that—

(*a*) the amount of compensation for the extinguishment of the right of reversion in lands in any estate shall not exceed the amount calculated at the rate of Rs. 10 per 100 acres of such lands;

(*b*) the amount of compensation for the extinguishment of any right in any waste land or in any other property referred to in clause (*c*) of section 4, which under the terms of the kowl was the property of the estate holder shall not exceed the amount calculated at the rate of Rs. 25 per 100 acres of such land:

Provided further that, in the case of the extinguishment or modification of any other right of any estate holder or any right of any other person, the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894.

I of 1894.

(*4*) Subject to the provisions of sub-section (*5*), the award of the Collector shall be final.

Bom. XII of 1939.

(*5*) Any person aggrieved by the award or decision of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

(*6*) In deciding appeals under sub-section (*5*), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

V of 1908.

Limitation.

8. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of 1908.

Court fees.

9. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. VII of 1870.

Provisions of Bom. LXVII of 1948 to govern relations of estate holder and tenants.

10. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any of the lands in any estate or the mutual rights and obligations of an estate holder and his tenants, save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Bom. LXVII of 1948.

Rules.

11. The State Government may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall, when finally made, be published in the *Official Gazette*.

SCHEDULE.

[*See* section 2 (*1*)(*f*)]

Bombay Suburban District.

1. Deonar.
2. Borla.
3. Kirol.
4. Kanjur.
5. Bhandup.
6. Vikroli.
7. Vyaravli.
8. Chendavli.
9. Powai.
10. Tirandaj.
11. Kopri.
12. Sanki.
13. Paspoli.
14. Tangwan.
15. Kurla.
16. Marol.
17. Asalpay.
18. Kole Kalyan.
19. Mohili.
20. Parjapur.
21. Shahar.
22. Mogra (Mogray).
23. Wasivre (Oshivra).
24. Bandhivli.
25. Maravli.
26. Mahul.
27. Vile Parle.
28. Juhu.
29. Hirali.
30. Majas.

Thana District.

1. Varsawa Boreghat.
2. Chena.
3. Ghodbunder.
4. Bhayander.
5. Mira.
6. Chinchevli.
7. Dindoshi.
8. Akurli.
9. Borivde.
10. Dahisar.
11. Magatana.
12. Arey.
13. Kaneri.
14. Part Pahadi.
15. Goregaon.
16. Poisar.
17. Walnai.
18. Wadhwan.
19. Eksar.
20. Malad.
21. Tulsi.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXVIII OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 27th August 1951.)

(As read for the third time and passed by the Legislative Council on the 1st September 1951.)

A Bill to abolish exemption from land revenue enjoyed by holders of certain estates in the island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay.

[Shri MORARJI DESAI, M.L.A.]

MO-V Bk Hb 196—2

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XXXVIII OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 27th August 1951.)

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A Bill to abolish exemption from land revenue enjoyed by holders of certain estates in the island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay.

[Shri MORARJI DESAI, M.L.A.]

MO-V Bk Hb 196—2

BOMBAY ; PRINTED AT THE GOVERNMENT CENTRAL PRESS.

REGISTERED No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

MONDAY, 14TH JANUARY 1952.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

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BOMBAY ACT No. XLVII OF 1951—An Act to abolish exemption from land revenue enjoyed by holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay ... 1-4

The following Act of the Bombay Legislature having been assented to by the President on the 4th January 1952 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XLVII OF 1951.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 14th January 1952.)

An Act to abolish exemption from land revenue enjoyed by holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay.

WHEREAS it is expedient to abolish exemption from the payment of land revenue enjoyed by the holders of certain estates in the Island of Salsette in the Bombay Suburban and Thana Districts in the State of Bombay and to provide for certain other matters hereinafter appearing ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Salsette Estates (Land Revenue Exemption Abolition) Act, 1951.

(*2*) It extends to the villages specified in the Schedule in the Bombay Suburban and Thana Districts.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

Bom. V of 1879.

(*a*) 'Code' means the Bombay Land Revenue Code, 1879 ;

(*b*) 'estate' means a village or a part thereof specified in the Schedule, and held under a kowl ;

(*c*) 'estate-holder' means a holder of an estate and includes any person lawfully holding under or through him ;

(*d*) 'kowl' means a lease, a farm or an agreement under which an estate is held from the State Government ;

(*e*) 'permanent holder' means a sutidar, a shilotridar, a peasant proprietor or a holder who was in possession of the land in an estate before the grant of the kowl and whose rights have not been acquired by the estate-holder or who permanently holds any land on payment of assessment to the estate-holder ;

(*f*) 'Schedule' means the Schedule appended to this Act.

(*2*) Any words or expressions which are defined in the Code and not defined in this Act shall be deemed to have the meaning given to them by the Code.

Liability of land in estates to land revenue and extinguishment of estate-holder's right to revenue assessment and reversion or lapse.

3. (*1*) Notwithstanding anything contained in the kowl, a decree or order of a court or any other instrument or any law for the time being in force, but subject to the provisions of sub-section (*3*),—

(*a*) all lands in any estate are and shall be liable to the payment of land revenue to the State Government in accordance with the provisions of the Code and the rules made thereunder ;

(*b*) (*i*) an estate-holder in respect of any land which is in his actual possession as an estate-holder or is in the possession of any person who holds the same through or under him and who is not a permanent holder, and

(*ii*) a permanent holder,

shall be primarily liable to the State Government for the payment of land revenue due in respect of such land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land under the Code or the rules made thereunder or any other law for the time being in force :

Provided that the amount of any rent or a sum of money payable by the estate-holder as consideration or otherwise under the terms of the kowl shall no longer be leviable.

(*2*) The right to recover assessment in respect of any land held by a permanent holder and the right of reversion or lapse, if any, in respect of such land under the terms of the kowl shall be deemed to have been extinguished.

(*3*) Nothing in sub-section (*1*) shall be deemed to affect the right of any person to hold any land in an estate wholly or partially exempt from the payment of land revenue under a special contract, or grant made or recognized by the terms of the kowl in respect of the estate or under a law for the time being in force in favour of any person other than the estate-holder.

Waste lands, etc., to vest in Government.

4. (*a*) All waste lands in any estate which under the terms of the kowl are not the property of the estate-holder,

(*b*) all waste lands in any estate which under the terms of the kowl are the property of the estate-holder but have not been appropriated or brought under cultivation before the 14th August 1951, and

(*c*) all other kinds of property referred to in section 37 of the Code situate in an estate which is not the property of any individual or an aggregate of persons legally capable of holding property other than the estate-holder and except in so far as any

rights of persons may be established in or over the same and except as may be otherwise provided by any law for the time being in force, together with all rights in or over the same or appertaining thereto,

are and are hereby declared to be the property of the State and it shall be lawful to dispose of and sell the same by the authority in the manner and for the purposes prescribed in section 37 or 38 of the Code, as the case may be.

Forest rights.

5. The rights to trees specially those reserved by the Code, the Indian Forest Act, 1927, or any other law for the time being in force, shall vest in the State Government and nothing in this Act shall in any way affect the right of the State Government to apply the provisions of the Indian Forest Act, 1927, as in force in the State to forests in any of the estates.

XVI of 1927.

XVI of 1927.

Application of the Code to lands in estates.

6. Save as otherwise expressly provided in this Act, the provisions of the Code shall apply to lands in any estate.

Method of compensation for the extinguishment or modification of any rights in land.

7. (*1*) If any estate holder or any other person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in any property and if such estate holder or person proves that such extinguishment or modification amounts to transference to public ownership of such property, such estate holder or person may apply to the Collector for compensation.

(*2*) Such application shall be made in the form prescribed by rules made under this Act within six months from the date on which this Act comes into force.

(*3*) The Collector shall after a formal inquiry in the manner provided by the Code award such compensation as he deems reasonable and adequate:

Provided that—

(*a*) the amount of compensation for the extinguishment of the right of reversion in lands in any estate shall not exceed the amount calculated at the rate of Rs. 10 per 100 acres of such lands;

(*b*) the amount of compensation for the extinguishment of any right in any waste land or in any other property referred to in clause (*c*) of section 4, which under the terms of the kowl was the property of the estate holder shall not exceed the amount calculated at the rate of Rs. 25 per 100 acres of such land:

Provided further that, in the case of the extinguishment or modification of any other right of any estate holder or any right of any other person, the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894.

of 1894.

(*4*) Subject to the provisions of sub-section (*5*), the award of the Collector shall be final.

(*5*) Any person aggrieved by the award or decision of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom. XII of 1939.

(*6*) In deciding appeals under sub-section (*5*), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

V of 1908.

Limitation.

8. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of 1908.

Court-fees.

9. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. VII of 1870.

Provisions of Bom. LXVII of 1948 to govern relations of estate holder and tenants.

10. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any of the lands in any estate or the mutual rights and obligations of an estate holder and his tenants, save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Bom. LXVII of 1948.

Rules.

11. The State Government may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall, when finally made, be published in the *Official Gazette*.

SCHEDULE.

[*See* section 2 (*1*)(*f*)]

Bombay Suburban District.	Thana District.
1. Deonar.	1. Varsawa Boreghat
2. Borla.	2. Chena.
3. Kirol.	3. Ghodbunder.
4. Kanjur.	4. Bhayander.
5. Bhandup.	5. Mira.
6. Vikroli.	6. Chinchevli.
7. Vyaravli.	7. Dindoshi.
8. Chendavli.	8. Akurli.
9. Powai.	9. Borivde.
10. Tirandaj.	10. Dahisar.
11. Kopri.	11. Magatana.
12. Sanki.	12. Arey.
13. Paspoli.	13. Kaneri.
14. Tangwan.	14. Part Pahadi.
15. Kurla.	15. Goregaon.
16. Marol.	16. Poisar.
17. Asalpay.	17. Walnai.
18. Kole Kalyan.	18. Wadhwan.
19. Mohili.	19. Eksar.
20. Parjapur.	20. Malad.
21. Shahar.	21. Tulsi.
22. Mogra (Mogray).	
23. Wasivre (Oshivra).	
24. Bandhivli.	
25. Maravli.	
26. Mahul.	
27. Vile Parle.	
28. Juhu.	
29. Hirali.	
30. Majas.	

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